

STATE OF KANSAS
Department of Health and Environment

Notice of Hearing on Proposed Amendments to Regulations K.A.R. 28-68-1, K.A.R. 28-68-2, K.A.R. 28-68-3, and K.A.R.28-68-6 - Dry Cleaner Environmental Response Act.

The Kansas Department of Health and Environment (KDHE), Division of Environment, Bureau of Environmental Remediation, will conduct a public hearing to consider the proposed amendments to the following Kansas administrative regulations: K.A.R. 28-68-1, K.A.R. 28-68-2, K.A.R. 28-68-3, and K.A.R.28-68-6. The hearing will be held on September 19, 2000 beginning at 1:30 pm in Conference Room "A" at the Kansas Department of Health and Environment located at Forbes Field, Building 740, Topeka, Kansas 66620-0001.

K.A.R. 28-68-1 is the definition section of the dry cleaner environmental response act. The definition for "Applicant" has been added. Reference updates and spelling and grammar modifications have been included throughout.

K.A.R. 28-68-2 is the registration of facilities section of the dry cleaner environmental response act. Section (c) describes the annual registration fee and deadline for fee payment. Section (d) describes the posting of the owner's registration number. Reference updates and spelling and grammar modifications have been included throughout.

K.A.R. 28-68-3 is the performance standards section of the dry cleaner environmental response act. "Owner or operator of" has been included as a modifier to dry-cleaning facilities. Sections (b)(3), (b)(4), and the last sentence of (f)(1)(B) have been stricken regarding compliance with reference to January 3, 1997. Reference updates and spelling and grammar modifications have been included throughout.

K.A.R. 28-68-6 is the section of the dry cleaner environmental response act regarding the

deductible payment. The deductible payment has been increased from \$2,500.00 to \$5,000.00. Reference updates and spelling and grammar modifications have been included throughout.

The economic impacts to the regulated community and the state are expected to be minimal. The capital and annual costs of compliance with the proposed regulations are minimal because the agencies have been administering the provisions of DERA since it became effective in 1995. Persons who will bear the costs associated with the regulation changes have already been impacted by the initial costs imposed by DERA. The proposed regulations will affect costs in the following manner:

1) Proposed amendment K.A.R. 28-68-2 (c) will require any owner/operator of a dry-cleaning facility to submit a registration fee of \$100 with their annual registration.

2) Dry cleaners who apply to the Dry Cleaning Facility Release Trust Fund (DFRTF) will pay a deductible of \$5,000 to the fund.

3) Recent changes to DERA increased the environmental surcharge on dry-cleaning items to 2.5% from 2%.

4) The tax imposed on dry-cleaning solvents was also increased 0.5% this year per the pre-determined schedule in the original act. Initial and annual costs of implementing and enforcing the proposed regulations should be minimal because additional state regulatory staff will not be required.

There are several environmental benefits to be gained from the proposed amendments. Recent changes to DERA will enhance with moneys from a \$100 registration fee, an increase of the DFRTF deductible from \$2,500 to \$5,000 and an increase in the environmental surcharge from 2% to 2 1/2 %. The monetary increase enables the DFRTF to be liable for the payment of corrective action costs up to \$5,000,000. The environmental benefit of any corrective action will be the reduction of current and

possible future threats to human health and the environment.

The inclusion of a closed, direct-coupled delivery system for solvents adds further protection to the environment from releases of dry-cleaning solvents. This performance standard is intended to reduce the number and severity of any future releases of dry-cleaning solvent to the environment.

The time period between the publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulatory action. All interested parties may submit written comments prior to the hearing to Mr. Robert D. Jurgens, Kansas Department of Health and Environment, Bureau of Environmental Remediation, Assessment and Restoration Section, Forbes Field, Building 740, Topeka, Kansas 66620-0001. All interested parties will be given a reasonable opportunity to present their views orally on the proposed regulatory action during the hearings, as well as to submit their written comments at that time. In order to give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentation to five minutes.

Copies of the proposed amendments and the environmental impact and benefit statements may be obtained from the Kansas Department of Health and Environment, Bureau of Environmental Remediation, Assessment and Restoration Section by contacting Robert J. Weber at (785) 296-8801. Questions pertaining to these proposed amendments should be directed to Robert D. Jurgens, (785) 291-3250. The draft regulations are available on KDHE's internet home page at <http://www.kdhe.state.ks.us/dryclean/index.html>. The draft regulations are also available via e-mail in a Corel WordPerfect format. E-mail requests should be sent to Robert J. Weber at the following e-mail address: rweber@kdhe.state.ks.us.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed amendments and the economic impact and environmental benefit statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Robert J. Weber at (785) 296-8801.

Clyde D. Graeber

Secretary, Department of Health and Environment